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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,956	02/20/2004	William M. Koppes	84,660	4437

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Indian Head, MD 20640-5035

EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT PAPER NUMBER

1624

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,956

Applicant(s)

KOPPES ET AL.

Examiner

Venkataraman Balasubramanian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,6-12, 15 and 17-21 is/are rejected.
7) ☒ Claim(s) 3-5,13 and 14 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' response, which included cancellation of claim 16, addition of new claim 21 and amendment to claims 1, 2, 6-15, 17-20, filed On 5/24/2005, is made of record.

In view of applicants' response, the 112 second paragraph rejections made in the previous office action have been obviated. However, the following rejections apply.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6-12, 15 and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Following reasons apply. Any claim not specifically rejected is rejected as being dependent on a rejected claim and share the same indefiniteness of the rejected claim.

1. Claim s 1 and 21 are indefinite for more than one reason. Recitation of novel" in claims 1 and 21 renders claims 1, 21 and their dependent claims 6-12, 19-20 indefinite, as it is not clear what is intended by the term "novel". As it stands the claim 1 remains rejected and is not distinct over prior art. Hence, it is not clear what this attribute meant to be. The same applies to claim 21. An appropriate correction is needed.

Scope of the claim 1 as recited is unclear. The scope is broader than what was recited before but the last line appears to limit it to agriculturally composition. It is

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not clear what is the different between the agricultural composition and a composition having agriculturally acceptable carrier. As formulated claim 1 is vague and unclear.

Composition Claim 21 is also unclear. It recites a compound of formula shown therein and an acceptable carrier. It is not clear what is this "acceptable carrier" means.

2. Claim 15 is indefinite as it is not clear whether it is a chemical process claim or a process of making a composition. Claim 15 recites replacing a substituent which is clearly a process claim not a composition claim. Note dependent claims 17-18 are also rejected for the same reason.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 12, 19 and 20 are rejected 35 U.S.C 102(b) as being anticipated by DeMilo et al. J. Heterocyclic. Chem. 10: 231-233, 1973 for reasons of record. This rejection is same as made in the previous office action but now includes claim 2 and excludes claims wherein Rx is NH₂.

DeMilo et al., teaches several synthetic triazolo-triazine which include instant compounds. See entire document especially Scheme 1 shown in page 231 for triazolo-triazine compounds with substituents claimed as in the instant claims.

Applicants' argument to overcome this rejection is not persuasive. First of contrary to applicants' urging, examiner has pointed out the Scheme I in the art wherein instant compounds are taught.

As seen in the Scheme I, the mercapto compound, and the two methylmercapto compounds clearly anticipate the instant compound when SR_1 is SH or S-Me in claim 1. The remaining substituents are generically embraced in the R_y and R_z definition of electron donating group. Although applicants have amended the claim1 to exclude the S-Me embraced in the original claim1, the mercapto compound 1 still anticipates the instant claim 1.

Allowable Subject Matter

Claims 3-5, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable, barring any prior art finding in a subsequent search, if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Said claims 3-5, 13 and 14 would be allowed since the agricultural embraced in these claims are not taught or suggested by the art of record or from a search in the relevant art area.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Acting Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

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7/31/2005